UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,759	06/15/2001	Paul McAlinden	INTL-0600-US (P11741)	9776

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EXAMINER
DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.		Applicant(s)
Office Action Summary	09/882,759		MCALINDEN, PAUL
	Examiner		Art Unit
	Willie J. Daniel, Jr.		2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-30_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-30_ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on _06/15/2001_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____.
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by **Fette et al.** (US

6,052,600) (hereinafter Fette).

Regarding **Claim 1**, Fette discloses a software programmable radio (200) which

hereinafter reads on the claimed "portable device" (see col. 4, lines 54-67; Figs. 1 and 2),

comprising:

a memory (206) which hereinafter reads on the claimed "storage unit" (see col. 4, lines

55-56; Fig. 2); and

a controller (204) which hereinafter reads the claimed "control unit" communicatively

coupled to the storage unit (206) (see Fig. 2), the control unit (204) to determine whether

configuration of the portable device (200) is desired (see col. 2, lines 34-45; Fig. 3), where

the controller determines from information received from server, request configuration

information in response to determining that configuration is desired (see col. 3, lines 31-34,

col. 4, lines 25-34; col. 7, lines 42-48; Fig. 3), and receive the requested configuration

information (see col. 4, lines 34-36), where the controller determines the need for new or

updated software and request and receive the software.

Regarding **Claim 2**, Fette discloses the portable (200) device of claim 1, wherein the

control unit (204) further initializes the portable device (200) using at least a portion of the

configuration information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 5-9), where

the controller configures the portable device with the update information.

Regarding **Claim 3**, Fette discloses the portable device (200) of claim 1, wherein the

control unit (204) to determine whether configuration is desired comprises the control unit

(204) to detect an indication to upgrade the configuration of the portable device (200) (see

col. 2, lines 34-45; col. 4, lines 25-36; col. 7, lines 42-49; Fig. 3), where the portable is able

to determine if an upgrade is necessary from the updates requested and received.

Regarding **Claim 4**, Fette discloses the portable device (200) of claim 1, wherein the

control unit (204) establishes a communication link (105) with a software distribution

computer (SDC) (114) which hereinafter reads on the claimed "remote device" to receive the

configuration information (see col. 3, lines 28-41; Fig. 1), where the portable device

establishes a connection with the SDC via the base station to the server which is coupled to

the SDC.

Regarding **Claim 5**, Fette discloses the portable device (200) of claim 1, wherein the

control unit (204) stores the configuration information in a storage unit (206) (see col. 5,

lines 33-41; Figs. 3 and 4), where the controller stores the information (e.g., software

programs, waveforms, licenses) in the storage unit.

Regarding **Claim 6**, Fette discloses the portable device (200) of claim 1, wherein the

control unit (204) receives at least one of an operating system, protocol stack layer, and

application layer of the portable device (200) (see col. 3, lines 40-57; col. 4, lines 25-36; col.

6, lines 24-65; Figs. 3 and 4), where the portable device receives information for the

operating software, communication protocol, or an application.

Regarding **Claim 7**, Fette discloses the portable device (200) of claim 1, wherein the

control unit (204) determines whether restoration of the portable device (200) to an operation

state is desired (see col. 9, line 66 - col. 10, line 7; Figs. 3 and 4), where the controller

determines if the software upgrade is complete and correct then enables the portable device

for operation.

Regarding **Claim 8**, Fette discloses a method, comprising:

determining if configuration of a portable device (200) is desired (see col. 2, lines 34-45;

col. 4, lines 25-36; col. 7, 42-49; Fig. 3), where the portable determines a new or updated

information is necessary and request the information;

executing one or more instructions on the portable device (200) to receive configuration

information in response to determining that configuration of the portable device (200) is

desired (see col. 4, lines 25-44; 54-67; col. 7, lines 42-48; Figs. 1, 2, and 3), where the

controller determines the need for new or updated software and request and receive the

software; and

storing the received configuration information in the portable device (200) (see col. 5,

lines 33-41; Figs. 3 and 4), where the controller stores the information (e.g., software

programs, waveforms, licenses) in the storage unit.

Regarding **Claim 9**, Fette discloses the method of claim 8, further comprising

initializing the portable device (200) with at least a portion of the received configuration

information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 5-9), where the controller

configures the portable device with the update information.

Regarding **Claim 10**, Fette discloses the method of claim 8, comprising establishing a

wireless connection (105) with a remote device (114) (see col. 3, lines 28-41; Fig. 1), where

the portable device establishes a connection with the SDC via the base station to the server

which is coupled to the SDC,

transmitting a radio ID which hereinafter reads on the claimed "unique identifier"

associated with the portable device (200) (see col. 8, lines 3-14), where a unique radio ID is

associated with the portable device for identification of licenses and software, and

receiving configuration information from the remote device (114) associated with the

unique identifier (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 42-49; col. 8, lines 3-

14), where the controller receives the requested information for the portable device based on

the associated radio ID.

Regarding **Claim 11**, Fette discloses the method of claim 8, wherein determining if

configuration is desired comprises detecting an indication to reconfigure the portable device

(see col. 2, lines 34-45; col. 4, lines 25-36; col. 7, lines 42-49), where the availability of new

or updated software will indicate that the portable device will be reconfigured in accordance

to the latest software.

Regarding **Claim 12**, Fette discloses the method of claim 8, wherein storing the

received configuration information comprises storing at least one of an operating system,

protocol stack, and application layer of the portable device (see col. 3, lines 40-57; col. 4,

lines 25-36; col. 5 lines 33-41; col. 6, lines 24-65; Figs. 3 and 4), where the portable device

receives and stores information for the operating software, communication protocol, or an application in the memory.

Regarding **Claim 13**, Fette discloses a memory (206) which reads on the claimed "article" comprising one or more machine-readable storage media containing instructions that when executed enable a controller (204) which reads on the claimed "processor" (see col. 4, line 64 - col. 5, line 21) to:

request configuration information from a remote device (114) (see col. 4, lines 25-36; col. 7, lines 42-48; Figs. 3 and 4);

store the configuration information in response to requesting the configuration information (see col. 5, lines 11-41; Figs. 3 and 4); and

configure a portable device (200) using the configuration information (see col. 5, lines 11-21; col. 6, lines 62-65; Figs. 3 and 4), where the portable device is configured based on the information for configuring.

Regarding **Claim 14**, Fette discloses the article (206) of claim 13, wherein the instructions when executed enable the processor (204) to request configuration information in response to detecting an indication to reconfigure the portable device (200) (see col. 2, lines 34-45; col. 4, lines 25-36; 54-67; col. 7, lines 42-48; Figs. 1, 2, and 3), where the controller determines the need for new or updated software and request and receive the software to reconfigure the portable device.

Regarding **Claim 15**, Fette discloses the article of claim 13, wherein the instructions when executed enable the processor (204) to transmit a unique identifier associated with the portable device and receive the configuration information associated with the unique

identifier (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 42-49; col. 8, lines 3-14),

where the controller receives the requested information for the portable device based on the

associated radio ID.

Regarding **Claim 16**, Fette discloses the article of claim 13, wherein the instructions

when executed enable the processor (204) to initialize the portable device (200) using at least

a portion of the configuration information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7,

lines 5-9), where the controller configures the portable device with the update information.

Regarding **Claim 17**, Fette discloses the article of claim 13, wherein the instructions

when executed enable the processor (204) to store information to upgrade the configuration

of the portable device (200) (see col. 5, lines 33-41; Figs. 3 and 4), where the controller

stores the information (e.g., software programs, waveforms, licenses) in the storage unit.

Regarding **Claim 18**, Fette discloses the article of claim 13, wherein the instructions

when executed enable the processor (204) to store at least one of an operating system,

protocol stack, and application layer of the portable device (200) (see col. 3, lines 40-57; col.

4, lines 25-36; col. 5 lines 33-41; col. 6, lines 24-65; Figs. 3 and 4), where the portable device

receives and stores information for the operating software, communication protocol, or an

application in a memory.

Regarding **Claim 19**, Fette discloses a software programmable radio (200) which

reads on the claimed "wireless phone" (see col. 4, lines 54-67; Figs. 1 and 2), comprising:

a storage unit (206) (see col. 4, lines 55-56; Fig. 2); and

a control unit (204) communicatively coupled to the storage unit (206) (see Fig. 1), the

controller (204) to detect an indication to reconfigure the wireless phone (200) (see col. 2,

lines 34-45; col. 4, lines 25-36; col. 7, lines 42-49), where the availability of new or updated

software will indicate that the portable device will be reconfigured in accordance to the latest

software, request reconfiguration information (see col. 4, lines 25-36; col. 6, lines 58-67),

store the reconfiguration information in the storage unit (206) (see col. 5, lines 33-41; Figs. 3

and 4), where the controller stores the information (e.g., software programs, waveforms,

licenses) in the storage unit, and initialize the wireless phone (200) with the reconfiguration

information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 5-9; Figs. 3 and 4), where

the controller configures the portable device with the update information.

Regarding **Claim 20**, Fette discloses the wireless phone (200) of claim 19, wherein

the control unit (204) receives the reconfiguration information from a remote device (114)

over a wireless link (105) (see col. 3, lines 28-41; Fig. 1), where the portable device

establishes a connection with the SDC via the base station to the server which is coupled to

the SDC.

Regarding **Claim 21**, Fette discloses the wireless phone (200) of claim 19, wherein

the control unit (204) requests reconfiguration information associated with a serial number

(radio ID) of the wireless phone (200) (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines

42-49; col. 8, lines 3-14), where the controller configures the portable device with the update

information based on the associated radio ID.

Regarding **Claim 22**, Fette discloses the wireless phone (200) of claim 19, wherein

the control unit (204) initializes the wireless phone (200) with an earlier version of the

reconfiguration information (see col. 3, lines 40-57; col. 4, lines 25-36; col. 5 lines 33-41;

col. 6, lines 24-65; Figs. 3 and 4), where the wireless phone initializes with an earlier version

in which a later software version is requested to update the wireless phone.

Regarding **Claim 23**, Fette discloses a wireless phone (200) of claim 19, wherein the

control unit (204) stores at least one of an operating system, protocol stack, and application

layer of the wireless phone (200) (see col. 3, lines 40-57; col. 4, lines 25-36; col. 5 lines 33-

41; col. 6, lines 24-65; Figs. 3 and 4), where the portable device receives and stores

information for the operating software, communication protocol, or an application in a

memory.

Regarding **Claim 24**, Fette discloses a method, comprising:

receiving an indication to reconfigure the wireless phone (200) (see col. 2, lines 34-45;

col. 4, lines 25-36; col. 7, lines 42-48), where a request is made to obtain new or updated

information for reconfiguring the wireless phone;

requesting reconfiguration information from a remote device (114) based in response to

receiving the indication (see col. 2, lines 34-45; col. 4, lines 25-44; 54-67; col. 7, lines 42-48;

Figs. 2-4), where the controller determines the need for new or updated software and request

and receive the software; and

storing the reconfiguration information in a storage unit (206) of the wireless phone (200)

(see col. 5, lines 33-41; Figs. 3 and 4), where the controller stores the information (e.g.,

software programs, waveforms, licenses) in the storage unit..

Regarding **Claim 25**, Fette discloses the method of claim 24, further comprising

initializing the wireless phone (200) using at least a portion of the reconfiguration

information (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 5-9), where the controller

configures the portable device with the update information.

Regarding **Claim 26**, Fette discloses the method of claim 25, wherein storing the

reconfiguration information further comprises receiving the reconfiguration information over

a wireless link (105) (see col. 3, lines 28-41; Fig. 1), where the portable device establishes a

connection with the SDC via the base station to the server which is coupled to the SDC.

Regarding **Claim 27**, Fette discloses the method of claim 24, wherein storing the

reconfiguration information comprises storing reconfiguration information associated with an

earlier version of at least one of an operating system, protocol stack, and application layer

(see col. 3, lines 40-57; col. 4, lines 25-36; col. 5 lines 33-41; col. 6, lines 24-65; Figs. 3 and

4), where the portable device receives and stores information for the operating software,

communication protocol, or an application in a memory in which the information can be an

update to an earlier version of the software.

Regarding **Claim 28**, Fette discloses the method of claim 24, wherein requesting the

reconfiguration information comprises transmitting a unique identifier associated with the

wireless phone (see col. 5, lines 5-13; col. 6, lines 58-65; col. 7, lines 42-49; col. 8, lines 3-

14), where the controller configures the portable device with the update information based on

the associated radio ID.

Regarding **Claim 29**, Fette discloses a system (100) (see col. 3, lines 22-57; Fig. 1),

comprising:

a storage unit (206) to store configuration information associated with a portable device

(200) (see col. 4, lines 55-56; col. 5, lines 33-48; Fig. 2); and

a control unit (204) communicatively coupled to the system, the controller (204) to

receive a request to transmit the configuration information to the portable device (200) in

response to receiving the request (see col. 4, lines 25-36), where the portable device receives

the requested information (e.g., software program, waveform, license, configuration file).

Regarding **Claim 30**, Fette discloses the system of claim 29, wherein the control unit

(204) identifies configuration information associated with a unique identifier (radio ID)

associated with the portable device (206) and transmits the identified configuration

information to the portable device (200) (see col. 4, lines 25-36; col. 8, lines 3-14), where the

radio ID of the portable device is transmitted when information is requested in which the

controller would recognize when receiving the requested information.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

    Hoffman (US 6,622,017) discloses *Over-The-Air Programming of Wireless Terminal Features*.

3.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 7:30-4:30.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

    Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marsha O Banks-Harold

WJD,JR/wjd,jr
12 February 2004

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